

DEC 21 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 12-90110

ORDER

KOZINSKI, Chief Judge:

A pro se prisoner alleges that a district judge dismissed his civil case due to the prisoner's failure to amend his complaint, without first providing complainant with notice of the need to amend. Complainant also claims that he filed several motions for reconsideration of this decision and didn't receive any response from the judge. Complainant's allegations go to the merits of the judge's rulings and therefore must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B). In any event, the docket for complainant's case reveals that, since this misconduct complaint was filed, the judge has given complainant another opportunity to amend and complainant has done so.

Complainant also claims that "[i]t's common knowledge the district courts dismiss . . . prisoners['] cases" in order to charge them court fees twice for a single case. However, he provides no proof to support this allegation. See In re

Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). Without evidence, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.